

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Miles et al. Art Unit : 3732
Serial No. : 10/759,811 Examiner : Patel, Yogesh P.
Filed : January 16, 2004 Confirmation No.: 8249
Notice of Allowance Date: February 1, 2010
Title : SURGICAL ACCESS SYSTEM AND RELATED METHODS

MAIL STOP ISSUE FEE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NOTICE OF ALLOWANCE AND COMMENTS ON EXAMINER'S
REASONS FOR ALLOWANCE

In response to the Notice of Allowance mailed February 1, 2010, enclosed is a completed issue fee transmittal form PTOL-85b.

Applicants recognize that in accordance with M.P.E.P. § 1302.14, the Examiner's reasons for allowance need not set forth all of the details as to why the claims are allowed. In the above-referenced application, Applicants do not concede that the Examiner's stated reasons for allowance are the only reasons for which the claims are allowable. Applicants agree that the particular claim elements identified in the Examiner's reasons for allowance are not disclosed or suggested by the prior art of record, yet the claims are patentable for other reasons—including the inventive combination of all of the recited claim elements. In addition, the Applicants expressly note that system claim 1 has a different scope than method claim 16, and the reasons for allowance for claim 1 may be different for those of claim 16.

Please charge the \$1,510.00 issue fee and \$300.00 publication fee to Deposit Account No. 50-2040 for Customer No. 30,328. Please apply any additional charges or credits to our Deposit Account No. 50-2040.

Respectfully submitted,
NUVASIVE, INC.

Date: February 3, 2010

/Rory Schermerhorn/
Rory Schermerhorn, Esq.
Registration No. 58,148

NuVasive, Inc.
7475 Lusk Boulevard
San Diego, CA 92121
Tel.: (858) 909-1845